



State of Utah

Department of Natural Resources

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Division of Oil, Gas & Mining

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Governor

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Lieutenant Governor

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May 26, 2005

CERTIFIED RETURN RECEIPT 7002 0510 0003 8603 3462

David Penney
Penney's Gemstones
2400 East 30 South
P.O. Box 312
Beaver, Utah 84713-0312

Subject: Potential Violation for Failing to Complete LMO Application, David Penney, Sliver 3-4, M/001/057, Beaver County, Utah

Dear Mr. Penney:

For over a year the Division has been working with you to help you obtain a large mine permit for the Sliver 3-4 mine. As of this date, you have been unsuccessful in completing the requirements. To recap; on October 20, 2004, the Division received your response to the major deficiencies in your Large Mine Plan. Shortly thereafter, on October 22, 2004, we sent a letter to you discussing the remaining deficiencies and explained that the information we had received to date was lacking in engineering detail and did not satisfy the requirements of our program. We (myself, Tom Munson, and Doug Jensen) also discussed this situation with you on a telephone conference call on November 19, 2004.

We explained in the October 22, 2005 letter as well as in the phone call, that the maps we needed should be drawn to engineering specifications with cross sections and contours drawn to the scale specified in the review. (Please refer to the Utah Non-Coal Rules at R647-4-105 for map requirements). The contours must extend at least beyond the extent of the disturbed boundary. The mine area should also be shown as it existed prior to mining, so that it is clear what topography existed before the mine. Highwalls, spoil piles, dumps, and the workings should be shown on the operational map. This map should also depict the extent of future mining (at least five years).

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David Penney
Page 2 of 3
M/001/057
May 26, 2005

There should be another map showing the planned reclamation for the site. This map should include contours and cross sections as well. All of these maps and cross sections need to be to sufficient scale that our engineer will be able to determine what your plans for mining are, as well as your plans for reclamation (twenty foot contour lines are not sufficient). Thus he would be able to calculate an accurate bond based on volume of material to be moved. Using these engineering designs he would be able to calculate the amount of cut and fill over the entire site and be able to calculate a bond based on those numbers.

Because of the amount of work involved in producing accurate maps and plans, we allowed you additional time to complete this Large Mine application. Since you were shut down for the winter anyway, we felt it was appropriate to allow you over the winter months to complete your application. It is now well into spring and you have failed to provide us any additional information related to your deficient application.

In a conversation you had with Mr. Munson at the Snowflake Obsidian site, you indicated that you have no intention to mine for two years and you thought that Mr. Jensen was going help you complete your maps. Even though you may not intend on mining, the disturbance of a large mine has already occurred. You must complete these cross-sections and maps and get approval for this large mine. Mr. Jensen can provide guidance, but cannot complete this project for you.

We again strongly recommend that you obtain the services of a registered land surveyor, professional engineer, or someone else who has been professionally trained who can help you through the permitting and mapping process, as the information submitted thus far has been inadequate.

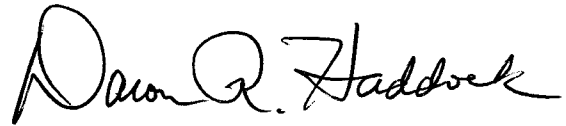
You must have the application completed and approved by **August 31, 2005**, (remember there is a 30-day public comment period that must occur before a large mine application can be approved) **or enforcement action will be necessary.** Unfortunately, your failure to *adequately* complete the Large Mining application places the Sliver 3-4 mine permit in jeopardy. The Mineral rules at R647-3-113 require that you have Division approval prior to expanding a mining operation beyond five acres of disturbance. Since this was not done, **it is imperative that you:**

David Penney
Page 3 of 3
M/001/057
May 26, 2005

- Contact us as soon as possible and make arrangement for completing your application. We encourage you to work closely with us so that it is clear what detail you will supply when submitting the application to us.
- **Supply the necessary and complete information for this large mine application by July 1, 2005**, in order for us to have time to review the information, assure it is complete and prepare the 30-day public comment.
- Receive approval of the Large Mine Notice of Intent by August 31, 2005 and **prior** to commencing any mining.

If you have any further questions regarding the conditions of this letter, please contact me at (801) 538-5325, or Tom Munson at (801) 538-5321.

Sincerely,



Daron R. Haddock
Permit Supervisor
Minerals Regulatory Program

DRH:jb

cc: Ed Ginouves, BLM, Cedar City FO (UTU-71326)
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